

The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

Paper No. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JUN KITAMURA

Appeal No. 2003-1375
Application No. 09/035,425

ON BRIEF

Before HAIRSTON, JERRY SMITH, and LEVY, Administrative Patent Judges.

HAIRSTON, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 through 8.

The disclosed invention relates to iris control in a video camera apparatus.

Claim 1 is the only independent claim on appeal, and it reads as follows:

1. A video camera apparatus comprising:

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a solid-state imaging element having a plurality of pixels arranged in a matrix form, a color filter being arranged with respect to each of said pixels;

image signal processing means for producing image information constructed of luminance information and color information based on the respective pixel information outputted from said solid-state imaging element;

averaging means for averaging a predetermined amount of the respective pixel information;

pseudo-luminance information producing means for multiplying the averaged pixel information which is outputted from said solid-state imaging element and is acquired before being inputted into said image signal processing means to thereby produce a pseudo-luminance information signal; and

iris control means for performing an iris control based on said pseudo-luminance information signal.

The references relied on by the examiner are:

Arai et al. (Arai)	5,128,769	July 7, 1992
Kondo	5,526,046	June 11, 1996
Tamura	5,999,215	Dec. 7, 1999
(effective filing date Sept. 8, 1993)		

Claims 1, 2 and 5 through 8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kondo in view of Arai.

Claims 3 and 4 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kondo in view of Arai and Tamura.

Reference is made to the final rejection (paper number 7, the briefs (paper numbers 11 and 13) and the answer (paper number 12) for the respective positions of the appellant and the examiner.

OPINION

We have carefully considered the entire record before us, and we will reverse the obviousness rejection of claims 1 through 8.

Appellant has not challenged the examiner's finding (final rejection, page 3) that Kondo discloses all of the structure set forth in claim 1 except for "an averaging means for averaging a predetermined amount of the respective pixel information and a pseudo-luminance information producing means capable of multiplying the averaged pixel information outputted from the imaging element." With respect to the missing teachings in Kondo, the examiner states (final rejection, page 3) that "Arai reveals that it is well known in the art to utilize an averaging means and an integrator for averaging the total of three color signals to obtain a proper exposure (see col. 5, lines 9-12 and col. 26, lines 8-11)." Based upon the teachings of Arai, the examiner concludes (final rejection, page 3) that:

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement Arai's teachings. One would have been motivated to do so in effort [to] produce a clearer picture by obtaining a proper exposure.

Appellant argues (brief, page 5) that:

The portions of Arai relied upon by the Examiner, however, do not disclose averaging a predetermined amount of the R, G, and B pixel signals and then multiplying the

averaged signals. In lines 9-12 of col. 5, Arai rather discloses that three color signals are derived by a detector 10 and supplied to an integrator 11. The integrator 11 integrates the three color signals to obtain an overall exposure amount. Arai does not disclose the processes that take place within the integrator 11. . . . Furthermore, there is no indication that the integrator averages values. Therefore, the integrator in Arai does not multiply averaged pixel data.

In reply, the examiner states (answer, pages 4 and 5) that the integrator 11 in Arai inherently averages the three color signals from the video source, and that the MPU 30 in Arai inherently multiplies when it outputs a correction signal that adjusts the gain of the diaphragm controller 12.

Appellant challenges the examiner's inherency position, and maintains that the examiner has "failed to present a reference, or combination of references that discloses averaging respective pixel information and multiplying the averaged pixel information" (reply brief, pages 2 and 3).

We agree with appellant's arguments. Nothing in the record supports the examiner's conclusions that Arai teaches or would have suggested to one of ordinary skill in the art to use an integrator to average a predetermined amount of pixel information from an imaging element, and then to use the noted MPU to multiply the averaged pixel information as set forth in the claimed invention. The examiner's inherency position is equally without support in the

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record because a showing has not been made that the integrator and the MPU will necessarily perform the claimed functions. Stated differently, the examiner must provide extrinsic evidence, rather than opinion, that makes clear that "the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill." In re Robertson, 169 F.3d 743, 744-45, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999). Thus, the obviousness rejection of claims 1, 2 and 5 through 8 is reversed.

The obviousness rejection of claims 3 and 4 is likewise reversed because the teachings of Tamura do not cure the noted shortcomings in the teachings of Kondo and Arai.

DECISION

The decision of the examiner rejecting claims 1 through 8 under 35 U.S.C. § 103(a) is reversed.

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REVERSED

KENNETH W. HAIRSTON)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
JERRY SMITH)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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)	
STUART S. LEVY)	
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